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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/705,549

11/10/2003

John A. Benaglio

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EXAMINER

PHAM, THOMAS K

ART UNIT

PAPER NUMBER

2121

DATE MAILED: 12/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/705,549

Applicant(s)

BENAGLIO ET AL.

Examiner

Thomas K. Pham

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7-10 is/are allowed.
- 6) ☒ Claim(s) 1,2,4-6 and 11 is/are rejected.
- 7) ☒ Claim(s) 3 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                                    |

**First Action on the Merits**

1. Claims 1-11 of U.S. Application 10/705,549 filed on 11/10/2003 are presented for examination.

**Quotations of U.S. Code Title 35**

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

### **Claim Rejections - 35 USC § 102**

6. Claims 1-2 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 3,637,064 ("Cvacho").

#### **Regarding claim 1**

Cvacho teaches process for controlling the speed of intermediate production machines arranged to continuously perform sequential operations on drawn metal parts, comprising the steps of:

- a) providing a plurality of drawing press tools independently producing segregated streams of drawn metal parts (see FIG. 1 and col. 2 lines 64-69, "machines 22"),
- b) merging said segregated streams into a single ordered stream of drawn metal parts (see FIG. 1 and col. 3 lines 1-8, "conveyor 35"),
- c) providing a first intermediate production machine receiving said ordered stream and performing a first operation on said drawn metal parts (see col. 2 lines 64-69, "forming machines 22"),
- d) measuring the rate of production of drawn metal parts in each of said segregated streams (see col. 7 lines 20-26),
- e) selecting the highest rate of production of a said segregated stream (see col. 7 lines 27-36), and
- f) controlling the rate of production in the first intermediate production machine as a function of said selected highest rate of production (see col. 7 lines 37-46).

7. Claim 11 is rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,591,867 ("Doudement").

**Regarding claim 11**

Doudement teaches process for controlling the speed of intermediate production machines arranged to continuously perform sequential operations on drawn metal parts, comprising the steps of:

- a) providing a plurality of drawing press tools producing drawn metal parts (see FIG. 1 and col. 2 lines 35-44, “units 16, 17”),
- b) providing a first intermediate production machine receiving said drawn metal parts and performing a first operation on said drawn metal parts (see col. 2 lines 45-54),
- c) establishing a rate of production in the first intermediate production machine (see col. 2 lines 55-59),
- d) providing a buffer supplied with drawn metal parts by said first intermediate production machine, said buffer being arranged to maintain a pre-selected normal level of drawn metal parts (see col. 3 lines 13-19 and col. 4 lines 1-14),
- e) discharging drawn metal parts from said buffer at a variable discharge speed responsive to the level of drawn metal parts above or below said pre-selected normal level (see col. 1 lines 43-57),
- f) providing a second intermediate production machine receiving drawn metal parts from said buffer and performing a second operation on said drawn metal parts (see col. 4 lines 34-54), and
- g) controlling the second intermediate production machine in response to said variable discharge speed of said buffer (see col. 4 lines 55-67).

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**Regarding claim 2**

Cvacho teaches the rate of production in a segregated stream is determined by counting strokes of a drawing press tool in a selected period of time (see col. 2 lines 38-44).

**Regarding claim 4**

Doudement teaches providing a buffer supplied with drawn metal parts by said first intermediate production machine, said buffer being arranged to maintain a pre-selected normal level of drawn metal parts (see col. 3 lines 13-19 and col. 4 lines 1-14), and discharging drawn metal parts from said buffer at a variable discharge speed responsive to the level of drawn metal parts above or below said pre-selected normal level (see col. 1 lines 43-57).

**Regarding claim 5**

Doudement teaches providing a second intermediate production machine receiving drawn metal parts in said ordered stream from said buffer and performing a second operation on said drawn metal parts (see col. 4 lines 34-54), and controlling the second intermediate production machine in response to the variable discharge speed of said buffer (see col. 4 lines 55-67).

**Regarding claim 6**

Cvacho teaches providing a plurality of sensors to determine any backup of drawn metal parts in each of said segregated streams, and terminating operation of a drawing press tool when a sensor indicates backup of parts in any one of said segregated streams, while continuing to operate the remainder of said plurality of drawing press tools (see col. 6 lines 1-15).

*Allowable Subject Matter*

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8. Claim 3 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### **Reasons for Allowance**

9. Claims 7-10 are allowed.

10. The following is an examiner's statement of reasons for allowance:

While Cvacho (U.S. Patent No. 3,637,064) discloses a system for transferring articles, such as metal cans, from a plurality of can forming devices to a high speed can trimming machine whereby cans can be transferred in a precise, positive and high speed manner and shutdown of one or more of the devices will not interrupt the system operations. Cvacho does not teach multiplying said selected highest rate of production in a said segregated stream by the number of drawing press tools in said computer to obtain an optimum rate of production for said ordered stream, and controlling the speed of said ordered stream through said first intermediate production machine with said computer at said optimum rate of production; and other limitations related to these features in combination with the remaining elements and features of the claimed invention.

And Doudement (U.S. Patent No. 6,591,967) discloses a conveyor system for discrete entities, which system has a merging device fed by at least two upstream units each of which leads to the device for merging the entities that are spaced according to a first rate of speed, and of the type in which the entities leave the merging device in a single line at a second rate of speed. Doudement does not teach multiplying said selected highest rate of production in a said

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segregated stream by the number of drawing press tools in said computer to obtain an optimum rate of production for said ordered stream, and controlling the speed of said ordered stream through said first intermediate production machine with said computer at said optimum rate of production; and other limitations related to these features in combination with the remaining elements and features of the claimed invention.

Neither of these references taken either alone or in combination discloses a process for controlling the speed of intermediate production machine having all the claimed features of applicant's instant invention, specifically including: multiplying said selected highest rate of production in a said segregated stream by the number of drawing press tools in said computer to obtain an optimum rate of production for said ordered stream, and controlling the speed of said ordered stream through said first intermediate production machine with said computer at said optimum rate of production. Also, there is no motivation to combine the Cvacho reference with the Doudement reference to meet these limitations.



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***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner *Thomas Pham*; whose telephone number is (571) 272-3689, Monday - Thursday from 6:30 AM - 5:00 PM EST or contact Supervisor *Mr. Anthony Knight* at (571) 272-3687.


Any response to this office action should be mailed to: **Commissioner for Patents, P.O. Box 1450, Alexandria VA 22313-1450**. Responses may also be faxed to the **official fax number (571) 273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**Thomas Pham**  
*Patent Examiner*



November 28, 2005



**Anthony Knight**  
**Supervisory Patent Examiner**  
**Group 3600**